

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6350**

**BILL NUMBER:** HB 1110

**NOTE PREPARED:** Feb 22, 2006

**BILL AMENDED:** Feb 21, 2006

**SUBJECT:** Recycling of Mercury Components in Motor Vehicles.

**FIRST AUTHOR:** Rep. Brown T

**FIRST SPONSOR:** Sen. Gard

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Plans to Recycle Mercury Switches:* This bill requires a manufacturer of motor vehicles offered for sale in Indiana to develop and implement a plan to remove, collect, recover, and recycle or dispose of certain mercury switches from end of life vehicles. It exempts from mercury switch plan development requirements motor vehicle manufacturers that have never installed mercury switches in their motor vehicles. The bill requires the Indiana Department of Environmental Management (IDEM) to allow a public comment period on a plan of at least 30 days, and to act on the plan within 120 days. It requires motor vehicle recyclers to remove all mercury switches from end of life vehicles. It provides that motor vehicle recyclers include automotive salvage recyclers, automobile scrapyards, hulk crushers, scrap metal processors, and vehicle disposal facilities. The bill provides that mercury switch removal requirements take effect 30 days after IDEM approves a plan. The bill requires IDEM to report information on mercury switch removal to the Legislative Council and the Environmental Quality Service Council (EQSC).

*Payment for Mercury Switches:* The bill also provides for a payment out of the Solid Waste Management Fund (SWMF) to a motor vehicle recycler for each mercury switch removed (1) in an amount of at least \$1 and not more than \$5 as determined by the IDEM commissioner; and (2) to the extent that the commissioner makes money available from the SWMF for that purpose. The bill allows transfers for that purpose from the Indiana Recycling Promotion and Assistance Fund to the SWMF.

*Supplemental Environmental Project Credit Bank:* The bill also establishes the supplemental environmental project credit bank.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** (Revised) *Plans to Recycle Mercury Switches:* This bill requires the IDEM to review plans submitted by manufacturers of motor vehicles engaged on July 1, 2006, in the business of offering motor vehicles for sale in Indiana. The manufacturers must submit plans for, among other provisions, the removal, collection, recovery, and recycling or disposal of mercury switches from end-of-life vehicles. The plan must be submitted before October 1, 2006. The IDEM commissioner must not more than 30 days after receiving a plan issue a public notice. The public may submit written comments. Not more than 120 days after receiving the plan, the commissioner must determine whether the plan complies with the provisions of the bill. If necessary, the commissioner must review revised plans. No more than 240 days after receiving a plan, the commissioner on behalf of the manufacturer must complete any part of the plan that has not yet been approved. After the plan has been approved, the commissioner must review the plan three years after the original date of approval and every three years thereafter. IDEM must investigate violations. IDEM must also report information on mercury switch removal to the Legislative Council and the Environmental Quality Service Council (EQSC).

The impact of the above provisions will depend on the number of plans submitted. Costs associated with review, inspection, and enforcement for 12 plans are estimated at \$121,338.

**There are no appropriations in the bill. The agency plans to absorb any additional costs.**

*Payment for Mercury Switches:* The bill provides for a payment out of the SWMF to a motor vehicle recycler for each mercury switch removed. Payment must be at least \$1 and not more than \$5 as determined by the commissioner and to the extent that the commissioner makes money available from the SWMF for that purpose. The bill allows transfers for that purpose from the Indiana Recycling Promotion and Assistance Fund (IRPAF) to the SWMF. As of Feb 22, 2006, the IRPAF had a balance of almost \$1.3 M. The SWMF had a balance of \$607,177. The amount of expenditures that will be paid to recyclers is indeterminable and will be based on actions taken by the commissioner and on the number of recycled switches.

*Supplemental Environmental Project Credit Bank:* IDEM will also experience an increase in administrative costs associated with operating the bank (See State Revenues below). The impact will depend on participation by regulated entities.

*Rules.* The Solid Waste Management Board may adopt rules to implement the provisions of the bill. IDEM, which provides staff to the Board, should be able to adopt rules given its existing level of resources.

*Penalty Provisions.* Violations are subject to civil penalties. A person who obstructs, delays, resists, prevents, or interferes with IDEM personnel or designated agent in the performance of an inspection or investigation commits a Class C infraction. Each day of violation of this section constitutes a separate infraction.

A person who intentionally, knowingly, or recklessly violates environmental management laws, rules, standards adopted by one of the boards, or a determination issued by the commissioner commits a Class D felony. A person who is convicted of a Class D felony may, in addition to the term of imprisonment be punished by a fine of not less than \$5,000 and not more than \$50,000 per day of violation. If the conviction is for a violation committed after a first conviction, a fine of not more than \$100,000 per day of violation may be imposed. Other penalties could apply. Vehicles could be confiscated.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house

an adult offender was \$20,977 in FY 2005. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** (Revised) *Supplemental Environmental Project Credit Bank:* The bill also establishes the supplemental environmental project credit bank. The commissioner may allow regulated entities to bank the value, as determined by the commissioner, of environmentally beneficial activities that are not required by law or by rule. Regulated entities may also bank contributions to the SWMF. Credits in the bank may be used to pay gravity based penalties assessed against the entity. A gravity-based penalty is the punitive portion of the penalty over and above the economic benefit, which is a regulated entity's economic gain as a result of non-compliance. The part of a regulated entity's penalty that may be satisfied by banked credits may not exceed the amount of the penalty multiplied by a percentage determined by the commissioner. The commissioner may not determine a percentage that exceeds 90%. The commissioner must reduce the credit value of the credits in the bank by a factor determined by the commissioner so that the actual credit against an assessed gravity based penalty is not less than 10% and not more than 80% of the value of the credits. The affect that banking will have on penalties collected by IDEM is indeterminable and will in part be based on decisions made by the commissioner.

*Penalty Provisions:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** IDEM; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

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